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10/533,892	05/05/2005	Walter Wolf	016906-0391	8121
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FOLEY AND LARDNER LLP			EXAMINER	
SUITE 500			KOSANOVIC, HELENA	
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WASHINGTON, DC 20007				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/533,892	Applicant(s) WOLF, WALTER	
	Examiner HELENA KOSANOVIC	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's amendments filed 3/28/2008 are acknowledged.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed limitation "wherein each of the two metal duct permits airflow there through" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 19 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It is not clear how "two metal frame body formed from a two metal ducts, wherein the each two metal duct permits the air flow through", when said two metal ducts are not connected to the HVAC unit nor have any opening so air can go through and **out**, (emphases added by examiner). For the purpose of the examination the examiner treated said two metal frame ducts that permit the air flow through, two unnumbered hollow frame elements above and below elements 42 of the Heck reference, wherein the air is capable to flow inside said duct but not outside of the duct.

It is also noted that in original disclosure claim 14 claims a metal frame with a partially closed cross-section, and in dependent claim 19 said metal frame is formed from two metal ducts arranged parallel to each other, and therefore not having said partially closed cross section.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 14-18 and 21-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pasch EP 0662901 in view of Neuss 2001/0024047
2. Regarding claims 14 and 28, Pasch teaches an invention as claimed: A cross member 1, 17 (fig. 1) for a vehicle (col. 1, ll. 3-4) and adapted for mounting a heating and/or air-conditioning (HVAC) unit 7 (fig. 2) that has at least one air outlet 8,9 having: a basic body 4, 3 (fig. 1) which is adapted to be transversely mounted between respective sides of a vehicle and which comprises a metal frame member 1 (Fig. 1, col. 2, ll. 20-22) that has at least a partially closed profile cross-section 1 defining a hollow space 4 (fig. 2) axially extending along the frame member 1, said basic body having at least two generally straight subsections 4 which are connected via a third subsection 3 (fig. 1) of said frame member, **wherein the at least two generally straight subsection and the third subsection each has the partially closed profile cross sections(fig. 2) wherein paths of the at least two generally straight subsections eith the partially closed profile cross-section run in a same direction (Left and right from the unit 7, fig. 2) wherein said third subsection of said frame member that forms a widened area formed of elements 3 and 17 (fig. 1) for at least partially encircling the HVAC unit; at**

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least one air duct 13 (fig. 2) within said hollow space in at least one of said first and second subsections, wherein at least one air duct 13 is positioned for connection to the air outlet 9 of the HVAC unit.

3. Regarding claim 15 said basic body is configured to accept an HVAC unit 7 terminating with the air outlet 9 in approximately the plane of said third portion of the frame member and wherein the at least one air duct 16 is positioned to directly connect with the air outlet of the HVAC unit (fig. 2).

4. Regarding claim 16 air outlet 9 opens into at least one duct 13', where element 13' is part of duct 13 between elements 15 and 9 (fig. 2).

5. Regarding claim 17, said cross member further having an adapter element 15 for connecting the air outlet with the at least one air duct.

6. Regarding claim 18, the basic body is configured to receive an HVAC unit 7 terminating with air outlet 9 on one side the plane of said third portion of the frame member, wherein the at least one air duct 13' is diverted in a portion at said generally C/L-shaped portion of the frame member, and wherein the at least one air duct is positioned to connect with air outlet 9 of the HVAC unit (fig. 2)

7. Regarding claim 21 at least one air duct 16 is defined by the basic body (fig. 2).

8. Regarding claim 22 at least one air duct 16 having a separated duct member 13' (fig. 2).

9. Regarding claim 23 said separate duct member having a duct 15 formed of synthetic resin material/ plastic (col. 1 and 2, ll. 58 and 1 respectively).

10. Regarding claim 24 said hollow space having a synthetic resin (col. 1 and 2, ll. 58 and 1 respectively) reinforcing member 16 (fig. 2),
11. Regarding claim 25 said synthetic resin reinforcing member 16 having a reticulated structure (fig. 3).
12. Regarding claim 26, said adapter element 15 is formed from synthetic resin (col. 1 and 2, ll. 58 and 1 respectively).
13. Regarding claim 27, said cross member further having a fourth subsection 17 located in the widened area (fig. 2) and also connecting **said two generally straight subsection such that said third 3 and fourth 17 subsection** are adapted to generally surround the HVAC unit (fig. 2)

Pasch was not specific about third path having a curved path that at least partially runs in the direction different from the axial direction of the at least two generally straight subsections (claims 14, 15, 18 and 28) .

14. Neuss teaches a basic body 10 having a widened area in the middle (see Abstract, l.3, fig. 1) having a **curved path 33, 34, 35 (fig. 1, where openings 16 and 17 are located) that at least partially runs in the direction different from the axial direction of the at least two generally straight subsections (strait duct where openings 15 are located).**
15. It would have been obvious to one of ordinary skill in the art at the time of the invention to have the Pasch invention modified with the Neuss C-shaped portion in order to have more vent openings (elements 16 and 17, fig. 1) molded to the basic body

in the widened area and thus having said connection directly with a part of the housing so that no internal lines have to be laid (paragraph 0010).

16. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pasch EP 0662901 in view of Neuss 2001/0024047 and further in view of Heck 5,709,607.

Pasch in view of Neuss teaches the invention as discussed above but is silent about having duct between two ducts instead between two walls.

Heck teaches a duct 42 within a frame duct (unnumbered hollow frame elements above and below elements 42). Regarding the claim limitation that frame is made of metal instead of plastic, as prior art teaches, it would have been obvious to one having ordinary skill in the art at the time the invention was made to metal for the frame, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. (.See In reLeshin, 125 USPQ 416. See also Ballas Liquidating Co. v. Allied industries of Kansas, Inc. (DC Kans) 205 USPQ 331. Also MPEP 2144.07)

It would have been obvious to one ordinary skill in the art to have the Pasch in view of Neuss hybrid structure modified with the Heck ducts placed on both sides of the central duct in order to support the dashboard.

Response to Arguments

Applicant's arguments filed 3/25/08 have been fully considered but they are not persuasive.

In response to the applicant argument that: "There is nothing to teach or suggest that any portion of the basic body 18 of Neuss runs in a curved path, but runs only in a straight path. (Fig. 1 of Neuss.), the examiner disagrees. As discussed in this and in previous Office action, the Neuss reference shows the curved part 33, 34, 35 where openings 17 and 16 are located (fig. 1), and two straight ducts (unnumbered elements where openings 15 are located on left and right sides of the element 33, 34 and 35 (fig. 1).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HELENA KOSANOVIC whose telephone number is (571)272-9059. The examiner can normally be reached on 8:30-5:00, Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven McAllister can be reached on 571-272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. K./

Examiner, Art Unit 3749

/Steven B. McAllister/

Supervisory Patent Examiner, Art Unit 3749

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